

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

WILLIAM F. & JEANETTE M. SUCKOW,

**Bankruptcy No. 04-33864
Chapter 7**

Debtors

**NOTICE OF MOTION AND MOTION
OBJECTING TO CLAIMED
EXEMPTION**

TO: The Debtors and other entities specified in Local Rule 9013-3.

1. Michael S. Dietz, Trustee of the above bankruptcy estate moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this Motion on November 29, 2004, at 1:30 p.m., in Courtroom 228B, United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

3. Any response to this Motion must be filed and delivered not later than 1:30 p.m. on November 22, 2004, which is seven days before the hearing, or filed and served by mail not later than November 19, 2004, which is ten days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The Petition commencing this Chapter 7 case was filed on June 30, 2004. The case is now pending in this Court.

5. This Motion arises under 11 U.S.C. §§ 522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This Motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, and 9013-5.

6. The Debtors have scheduled Inheritance from the estate of Pearl M. Suckow valued at \$10,548.00 and claimed as exempt on Schedule C under 11 U.S.C. §522(d)(5). Attached as Exhibit “A” is a true and correct copy of Schedule C filed in this case.

7. Movant objects to the above noted exemptions claimed in that schedule for the following reasons: Debtor’s interest in this estate property would have been property of the estate if the Trustee had been aware of it on the date of filing. Debtors claim that they did not learn of the potential inheritance until after the date of filing at which time they attempted to amend their schedules to include the property.

WHEREFORE, the Trustee moves the Court for an Order denying the claimed exemption of Inheritance from the estate of Pearl M. Suckow

Dated: October 21, 2004

/s/ Michael S. Dietz

Michael S. Dietz
Registration No. 188517
DUNLAP & SEEGER, P.A.
Attorneys for Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

VERIFICATION

I, Michael S. Dietz, Trustee, the moving party named in the foregoing Notice of Hearing and Motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: October 21, 2004

/e/ Michael S. Dietz

Michael S. Dietz, Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

EXHIBIT “A”

Debtor(s)

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

(Check one box)

- ☒ 11 U.S.C. § 522(b)(1): Exemptions provided in 11 U.S.C. § 522(d). NOTE: These exemptions are available only in certain states.
- ☐ 11 U.S.C. § 522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTIONS
<u>SCHEDULE B - PERSONAL PROPERTY</u>			
Cash on hand	11 USC § 522(d)(5)	100.00	100.00
Checking account at Bank Midwest	11 USC § 522(d)(5)	100.00	100.00
Checking account at Profinium	11 USC § 522(d)(5)	100.00	100.00
Household furniture, furnishings, goods, and appliances	11 USC § 522(d)(3)	2,000.00	2,000.00
45 S&W, Llama 9 mm, 8mp380, 20 ga. shotgun	11 USC § 522(d)(5)	660.00	660.00
IRA	11 USC § 522(d)(5)	3,317.95	3,317.95
2004 federal and state income tax refunds	11 USC § 522(d)(5)	500.00	500.00
wages owed to debtors on date of filing	11 USC § 522(d)(5)	200.00	200.00
'86 Fiero	11 USC § 522(d)(2)	500.00	500.00
'86 Ford F250	11 USC § 522(d)(2)	300.00	300.00

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bankruptcy Case No. 04-33864

WILLIAM F. & JEANETTE M. SUCKOW,

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Emily D. Stenhoff, declare under penalty of perjury that on October 21, 2004, I mailed copies of the following:

Trustee's Notice of Motion and Motion Objecting to Claimed Exemption

by US Mail, postage pre-paid, to each entity named below at the address stated below:

OFFICE OF THE US TRUSTEE
1015 UNITED STATES COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

DAVID J. JONES
JONES LAW FIRM
PO BOX 7014
ROCHESTER MN 55903-7014

WILLIAM F. & JEANETTE M. SUCKOW
210 S MAIN ST
FAIRMONT MN 56031

Executed on October 21, 2004

Signed: Emily Stenhoff
Emily D. Stenhoff
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In re:

**WILLIAM F. & JEANETTE M.
SUCKOW,**

Bky Case No. **04- 33864**
Chapter 7

Debtors

**ORDER SUSTAINING TRUSTEE'S
OBJECTION TO DEBTORS' CLAIM
OF EXEMPTION**

AT ST. PAUL, MINNESOTA,

This Chapter 7 case came on before the Court on November 29, 2004, for a hearing on the

Trustee's objection to the Debtor's claimed exemption of the following property:

Inheritance from the estate of Pearl M. Suckow.

Appearances, if any, were noted on the record. Upon the documents on file herein and the arguments of counsel:

IT IS HEREBY ORDERED AND DETERMINED:

1. The Trustee's objection is sustained.
2. The Debtor's interest in Inheritance from the estate of Pearl M. Suckow is not exempt and is property of the bankruptcy estate to be administered by the Trustee in due course.

Dated: November __, 2004

BY THE COURT:

Gregory F. Kishel
United States Bankruptcy Judge